

**As Introduced**

**127th General Assembly  
Regular Session  
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**H. B. No. 239**

**Representative Latta**

**Cosponsors: Representatives McGregor, J., Evans, Goodwin, Okey, Seitz,  
Aslanides, Stebelton, Combs, Fessler**

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**A B I L L**

To amend section 2907.01 of the Revised Code to 1  
clarify the definition of "harmful to juveniles." 2

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 2907.01 of the Revised Code be 3  
amended to read as follows: 4

**Sec. 2907.01.** As used in sections 2907.01 to 2907.38 of the 5  
Revised Code: 6

(A) "Sexual conduct" means vaginal intercourse between a male 7  
and female; anal intercourse, fellatio, and cunnilingus between 8  
persons regardless of sex; and, without privilege to do so, the 9  
insertion, however slight, of any part of the body or any 10  
instrument, apparatus, or other object into the vaginal or anal 11  
opening of another. Penetration, however slight, is sufficient to 12  
complete vaginal or anal intercourse. 13

(B) "Sexual contact" means any touching of an erogenous zone 14  
of another, including without limitation the thigh, genitals, 15  
buttock, pubic region, or, if the person is a female, a breast, 16  
for the purpose of sexually arousing or gratifying either person. 17

(C) "Sexual activity" means sexual conduct or sexual contact, 18  
or both. 19

(D) "Prostitute" means a male or female who promiscuously 20  
engages in sexual activity for hire, regardless of whether the 21  
hire is paid to the prostitute or to another. 22

(E) "Harmful to juveniles" means that quality of any material 23  
or performance describing or representing nudity, sexual conduct, 24  
sexual excitement, or sado-masochistic abuse in any form to which 25  
all of the following apply: 26

(1) The material or performance, when considered as a whole, 27  
appeals to ~~the~~ a juvenile's prurient interest in sex ~~of juveniles~~. 28

(2) The material or performance is patently offensive to 29  
prevailing standards in the adult community as a whole with 30  
respect to what is suitable for juveniles. 31

(3) The material or performance, when considered as a whole, 32  
lacks serious literary, artistic, political, and scientific value 33  
for juveniles. 34

(F) When considered as a whole, and judged with reference to 35  
ordinary adults or, if it is designed for sexual deviates or other 36  
specially susceptible group, judged with reference to that group, 37  
any material or performance is "obscene" if any of the following 38  
apply: 39

(1) Its dominant appeal is to prurient interest; 40

(2) Its dominant tendency is to arouse lust by displaying or 41  
depicting sexual activity, masturbation, sexual excitement, or 42  
nudity in a way that tends to represent human beings as mere 43  
objects of sexual appetite; 44

(3) Its dominant tendency is to arouse lust by displaying or 45  
depicting bestiality or extreme or bizarre violence, cruelty, or 46  
brutality; 47

(4) Its dominant tendency is to appeal to scatological 48  
interest by displaying or depicting human bodily functions of 49  
elimination in a way that inspires disgust or revulsion in persons 50  
with ordinary sensibilities, without serving any genuine 51  
scientific, educational, sociological, moral, or artistic purpose; 52

(5) It contains a series of displays or descriptions of 53  
sexual activity, masturbation, sexual excitement, nudity, 54  
bestiality, extreme or bizarre violence, cruelty, or brutality, or 55  
human bodily functions of elimination, the cumulative effect of 56  
which is a dominant tendency to appeal to prurient or scatological 57  
interest, when the appeal to such an interest is primarily for its 58  
own sake or for commercial exploitation, rather than primarily for 59  
a genuine scientific, educational, sociological, moral, or 60  
artistic purpose. 61

(G) "Sexual excitement" means the condition of human male or 62  
female genitals when in a state of sexual stimulation or arousal. 63

(H) "Nudity" means the showing, representation, or depiction 64  
of human male or female genitals, pubic area, or buttocks with 65  
less than a full, opaque covering, or of a female breast with less 66  
than a full, opaque covering of any portion thereof below the top 67  
of the nipple, or of covered male genitals in a discernibly turgid 68  
state. 69

(I) "Juvenile" means an unmarried person under the age of 70  
eighteen. 71

(J) "Material" means any book, magazine, newspaper, pamphlet, 72  
poster, print, picture, figure, image, description, motion picture 73  
film, phonographic record, or tape, or other tangible thing 74  
capable of arousing interest through sight, sound, or touch and 75  
includes an image or text appearing on a computer monitor, 76  
television screen, liquid crystal display, or similar display 77  
device or an image or text recorded on a computer hard disk, 78

computer floppy disk, compact disk, magnetic tape, or similar data storage device. 79  
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(K) "Performance" means any motion picture, preview, trailer, play, show, skit, dance, or other exhibition performed before an audience. 81  
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(L) "Spouse" means a person married to an offender at the time of an alleged offense, except that such person shall not be considered the spouse when any of the following apply: 84  
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(1) When the parties have entered into a written separation agreement authorized by section 3103.06 of the Revised Code; 87  
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(2) During the pendency of an action between the parties for annulment, divorce, dissolution of marriage, or legal separation; 89  
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(3) In the case of an action for legal separation, after the effective date of the judgment for legal separation. 91  
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(M) "Minor" means a person under the age of eighteen. 93

(N) "Mental health client or patient" has the same meaning as in section 2305.51 of the Revised Code. 94  
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(O) "Mental health professional" has the same meaning as in section 2305.115 of the Revised Code. 96  
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(P) "Sado-masochistic abuse" means flagellation or torture by or upon a person or the condition of being fettered, bound, or otherwise physically restrained. 98  
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**Section 2.** That existing section 2907.01 of the Revised Code is hereby repealed. 101  
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**Section 3.** Section 2907.01 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 23 and Am. Sub. H.B. 95 of the 126th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be 103  
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harmonized if reasonably capable of simultaneous operation, finds	108
that the composite is the resulting version of the section in	109
effect prior to the effective date of the section as presented in	110
this act.	111